

APPEAL NO. 032629
FILED NOVEMBER 5, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 15, 2003. The hearing officer decided that the respondent (claimant herein) is entitled to supplemental income benefits (SIBs) for the first quarter from June 12 through September 10, 2003. The appellant (carrier herein) files a request for review in which it argues that the hearing officer's determinations that the claimant satisfied the good faith requirement pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)), by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) in the qualifying period for the first quarter, and that she is entitled to SIBs for that quarter are in error. In her response to the carrier's appeal, the respondent (claimant herein) urges affirmance.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Rule 130.102. The SIBs criteria in issue in this case are whether the claimant satisfied the good faith requirement by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC pursuant to Rule 130.102(d)(2) and whether the claimant's unemployment during the qualifying period was a direct result of her impairment. There was conflicting evidence in the record concerning whether or not the claimant satisfactorily participated in a TRC program. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer determines what facts the evidence has established. Our review of the record reveals that the hearing officer's determination that the claimant did satisfy the good faith requirement under Rule 130.102(d)(2) is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse the determination that the claimant is entitled to SIBs for the first quarter on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). See also Texas Workers' Compensation Commission Appeal No. 030784, decided May 8, 2003.

As far as direct result is concerned, the carrier points to other injuries sustained by the claimant. However, we have often stated that to prove direct result the claimant only need establish that the impairment from the compensable injury was a producing cause of the unemployment, not that it was the sole cause. We also have stated that a finding of "direct result" is sufficiently supported by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission

Appeal No. 950376, decided April 26, 1995; Texas Workers' Compensation Commission Appeal No. 950771, decided June 29, 1995. There was evidence of this in the present case, supporting the hearing officer's finding of direct result.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Margaret L. Turner
Appeals Judge